IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 30863 of 2006(Y)

PETITIONER:

S. RADHAKRISHNAN,
RESIDING AT `JAYANTHI LAND', EZHIPPURAM,
PARIPPALLY, KOLLAM.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.SREEKANTH.K.R
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT (E) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KOLLAM.

3. THE KALLUVATHUKKAL GRAMA PANCHAYATH,
REPRESENTED BY ITS SPECIAL GRADE SECRETARY,
KALLUVATHUKKAL P.O., KOLLAM.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.PIRAPPANCODE V.S.SUDHIR
BY G.P. SMT.RAMANI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 30863 of 2006

Dated this 19th day of February , 2007

JUDGMENT

Heard Sri.V.Chitambaresh, the learned counsel for the petitioner, Sri.Pirappancode V.S.Sudheer, the learned Counsel for the 3rd respondent and Smt.T.B.Ramani the learned Government Pleader. Sri.Chitambaresh is certainly right in saying that under the rules for regularization of authorised constructions, the local authority who is to receive the application has to forward the same to the District Town Planner, the District Town Planner is to forward the same to the Government, which alone has the power to reject the application. Ext.P2 order in this case has been passed by the District Collector/Town Planner himself. According to Sri.Chitambaresh, Ext.P2 is to be quashed straight away. But then as rightly submitted by Sri. Pirappancode Sudheer and Smt.Ramani, the learned Government Pleader the petitioner himself approached the Government with a Review Petition and the Government on the basis of the report submitted by the Chief Town Planner has passed Ext.P4 order rejecting the

Review Petition. In response to the above submission Sri.Chitambaresh submits that Ext.P4 was passed by the Government without hearing the petitioner. The above submission of Sri.Chithambaresh has some appeal.

2. Under the above circumstances, Ext.P4 is quashed and the Government is directed to have reconsideration of Ext.P3 Review Petition and take a fresh decision after hearing the petitioner. In order to enable the Government to comply with the above direction, the order of the Collector Ext.P2 is also quashed. The Government will take fresh decision as directed above after hearing the petitioner in accordance with law, as early as possible and at any rate within two months of receiving a copy of this judgment. The Government naturally will have to consider Ext.R1(a) also while disposing of the matter finally.

The writ petition is disposed of as above.

PIUS C.KURIAKOSE
Judge

dpk